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Regulation Packages # 0208-01

CDSS MANUAL LETTER NO. SS-08-01

TO: HOLDERS OF THE SOCIAL SERVICE STANDARDS MANUAL, DIVISION 30

**Regulation Package # 0208-01**

**Effective 07/1/08**

**Sections 30-755 and 30-770**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/SocialServ\\_620.htm](http://www.dss.cahwnet.gov/ord/SocialServ_620.htm).

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) extends eligibility for certain public social services to noncertified, noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence and other serious crimes, to the same extent as refugees.

In October 2000, the federal Trafficking Victims Protection Act (TVPA) created two new nonimmigrant visas, the "T" Visa, for victims of a severe form of human trafficking, and the "U" Visa, for victims of criminal activity as defined in federal statute, to allow these individuals to remain in the United States (U.S.) The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and has made a bona fide application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General and/or other law enforcement agency in the prosecution of human traffickers.

Federal law defines noncitizen victims of serious crimes as aliens who have suffered substantial physical or mental abuse as a result of having been victims of severe criminal activity and possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

Certain federal programs provide benefits and services to refugees and victims of human trafficking who meet federal eligibility criteria. Noncertified victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides benefits and services to the same extent as those persons eligible under the federal Refugee Act of 1980. Services include, but are not limited to the equivalent of: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Employment Social Services, California Work Opportunity and Responsibility to Kids, Food Stamps, Cash Assistance Program for Immigrants, and Healthy Families Program benefits. Once the trafficking victim has been certified by ORR, he or she is eligible for federal benefits and services to the same extent as refugees.

SB 1569 required the California Department of Social Services (CDSS) to adopt regulations to implement and administer the provisions of the bill no later than July 1, 2008.

These regulations were adopted on an emergency basis and will be considered at the Department's public hearing to be held on August 13, 2008.

### **FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Social Service Standards Manual changes was SS 07-01.

<u>Page(s)</u>	<u>Replace(s)</u>
61.2 and 61.5 127.1	Pages 61.2 and 61.5 Insert after Page 127

Attachment

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<b>30-702</b>	<b>COUNTY QUALITY ASSURANCE AND QUALITY IMPROVEMENT</b>	<b>30-702</b>
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(Continued)

- .171 Long-Term Care Insurance.
- .172 Worker's Compensation Insurance.
- .173 Victim Compensation Program Payments.
- .174 Civil Judgment/Pending Litigations.
- .18 Conduct joint case review activities with State QA staff.
- .19 Develop a plan for and perform targeted QA/QI studies based on:
  - .191 Analysis of data acquired through the county's quality assurance program; or
  - .192 Analysis of data available through Case Management Information Payrolling System (CMIPS), county systems; or
  - .193 Other information, including but not limited to:
    - (a) Data from QA case review findings; or
    - (b) Input from Public Authorities and other consumer groups.
  - .194 The county shall submit a quarterly report of their QA/QI activities to CDSS on the SOC 824 (3/06) form fifteen days after the report quarter ends. (Quarters end on March 31, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>).
- .2 Each county shall develop and submit an annual QA/QI Plan to CDSS no later than June 1 of each year.
  - .21 The QA/QI Plan shall identify how the county will use the information gathered through QA activities to improve the quality of the IHSS program at the local level.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12305.71, Welfare and Institutions Code.

<b>30-755</b>	<b>PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM</b>	<b>30-755</b>
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.1 Eligibility

.11 A person is eligible for IHSS who is a California resident living in his/her own home, and who meets one of the following conditions:

.111 Currently receives SSI/SSP benefits.

.112 Meets all SSI/SSP eligibility criteria including income, but does not receive SSI/SSP benefits.

.113 Meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards, meets applicable share of cost obligations, and meets the state program noncitizen status as provided in MPP Section 30-770.51.

.114 Was once eligible for SSI/SSP benefits, but became ineligible because of engaging in substantial gainful activity, and meets all of the following conditions:

(a) The individual was once determined to be disabled in accordance with Title XVI of the Social Security Act (SSI/SSP).

(b) The individual continues to have the physical or mental impairments which were the basis of the disability determination.

(c) The individual requires assistance in one or more of the areas specified under the definition of "severely impaired individual" in Section 30-753.

(d) The individual meets applicable share of cost obligations.

.12 Otherwise eligible applicants, currently institutionalized, who wish to live in their own homes and who are capable of safely doing so if IHSS is provided, shall upon application receive IHSS based upon a needs assessment.

.121 Service delivery shall commence upon the applicant's return home, except that authorized services as specified in Section 30-757.12 may be used to prepare for the applicant's return home.

.2 Eligibility Determination

.21 Eligibility shall be determined by county social service staff at the time of application, at subsequent 12-month intervals, and when required based on information received about changes in the individual's situation.

<b>30-755</b>	<b>PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM (Continued)</b>	<b>30-755</b>
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.263 For persons eligible under .114 above, the information used to decide that the recipient was once determined to be eligible for SSI/SSP, was once determined to be disabled as provided in .114(a) above, and was discontinued from SSI/SSP because of engaging in substantial gainful activity.

.264 The computation of the amount the recipient must pay toward the cost of in-home supportive services.

.3 Medi-Cal

.31 Recipients of services under .112, .113, and .114 above are eligible for Medi-Cal, provided that any net nonexempt income in excess of the SSI/SSP benefit level shall be applied to the cost of in-home supportive services.

NOTE: Authority cited: Sections 10553, 10554, and 12150, Welfare and Institutions Code; Chapter 939, Statutes of 1992; and Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 10554, 12304.5, 12305, 13283, 14132.95, and 18945 Welfare and Institutions Code.

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<b>30-770</b>	<b>ELIGIBILITY STANDARDS (Continued)</b>	<b>30-770</b>
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- .452 In-Home Supportive Services shall not be resumed until the recipient, upon returning to the state, requests a reassessment of need from the county, and the reassessment has been completed in accordance with regulations (Section 30-763).
- .46 Outside the United States While Absent from the State
- .461 In-Home Supportive Services shall be discontinued for any recipient who is outside the United States for all of any month, or for 30 days in a row, as such an individual is no longer eligible to receive SSI/SSP. Discontinuation of benefits will be in accordance with notice of action regulations.
- (a) Upon the individual's return to the United States, and upon his/her reestablishment as an SSI/SSP recipient, an SSI/SSP eligible recipient, or an individual who would be eligible for SSI/SSP except for excess income, he/she may again apply for IHSS benefits. The county shall redetermine IHSS eligibility and perform a needs assessment based on current circumstances.
- (b) "United States" includes the 50 states, the District of Columbia, and the Northern Mariana Islands.
- .47 Continuation of IHSS While Absent from the State
- .471 When the county has determined that the recipient is entitled to the continuation of IHSS benefits while absent from the state (the recipient is absent from the state for 60 or more days and is prevented from returning due to illness or other good cause, as determined in Sections 30-770.42, .43, and .44), the following apply:
- (a) The recipient shall continue to receive the same number of hours of IHSS that were authorized prior to his/her temporary absence. This level of authorization will continue until a reassessment is required.
- (b) The recipient's out-of-state individual provider (IP) shall be reimbursed at the county's lowest current IP base rate.
- (c) The recipient must continue to mail time sheets to the county as required by regulations.

<b>30-770</b>	<b>ELIGIBILITY STANDARDS (Continued)</b>	<b>30-770</b>
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| .5 State Program Noncitizen Status

- | .51 A noncitizen victims of human trafficking, domestic violence, or other serious crimes as defined under the Trafficking and Crime Victims Assistance Program (TCVAP), MPP Chapter 70-100, shall be eligible for IHSS if all other eligibility criteria are met.

| NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.